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Art Unit: 2636 Examiner: Jennifer A. Stone  
Attorney Docket No.: AMG.4017.PAT

### **REMARKS**

Claims 1-40 are pending and claims 1-40 stand rejected. The Office action rejected claims 1-40 under 35 USC § 102(b) and § 103(a) based upon U.S. Pat. 5,966,073 (hereinafter "Walton"); U.S. Pat. 4,348,655 (hereinafter "Goertler"); U.S. Pat. 5,673,019 (hereinafter "Dantoni"); and U.S. Pat. 4,638,295 (hereinafter "Middlebrook"). Applicant respectfully believes that the objections and rejections have been traversed in light of the following remarks or no longer apply in light of the amendments.

#### **Claim rejections under 35 USC § 112**

Claim 24 stands rejected under 35 USC § 112 for being indefinite and failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office action states that the "previous position" does not describe an item or object. Applicant requests an amendment above to include the phrase "of the shaft" after "a previous position" in claim 24 to clarify. Therefore, Applicant respectfully requests that this rejection of claim 24 be withdrawn.

#### **Claim rejections under 35 USC § 102**

Claims 1, 6-7, 11-14, 18, 32, and 36 stand rejected under 35 USC § 102(b) as being anticipated by Walton and Dantoni. Applicant respectfully suggests that the rejections are traversed in the following remarks.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference.<sup>1</sup> Furthermore, the identical invention must be shown in as complete detail as is contained in the claim.<sup>2</sup>

With regards to independent claim 1, the Office action fails to establish a prima facie case of anticipation by Walton because citations of Walton provided as support for the rejections fail to describe, suggest or teach "each and every element as set forth in the claim[s]". In particular, claim 1 states:

<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

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A system to sense when a turn signal for a vehicle is active and the vehicle is turning and indicate that the vehicle is turning by **varying a frequency and/or intensity with which the turn signal blinks**, signaling to other motorists that the vehicle is turning, **wherein the frequency and/or intensity with which the turn signal blinks is varied based upon an amount of time during which the vehicle is turning**-(emphasis added).

As cited, Walton states:

...If desired, the turn light circuit can be configured with the turning of the vehicle so that the **turn light circuit activates the turn signals** when the vehicle enters a turn and continues **for some predetermined period of time**, such as, for example, two seconds.-(emphasis added).

Walton describes the option of activating the turn signals for a predetermined period of time. Activating a turn signal for a predetermined period of time does not “vary[] a frequency and/or intensity with which the turn signal blinks... based upon an amount of time during which the vehicle is turning”. Thus, Applicant respectfully requests that the rejection of claim 1 be withdrawn and that claim 1 be allowed.

With regards to claims 2-5, Applicant submits that claims 2-5 incorporate the limitations of claim 1. So Applicant respectfully requests that the rejections of claims 2-5 under 35 USC § 103(a) be withdrawn and the claims be allowed.

With regards to amended independent claim 6, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach “each and every element as set forth in the claim[s]”. In particular, amended claim 6 states:

An apparatus to communicate a turn of a vehicle, the apparatus comprising: a sensor to detect a position of a shaft of the vehicle; a control circuit to generate an output signal, wherein the output signal varies based upon the position of the shaft; and a turn signal lamp to produce a turn signal based upon the output signal, **wherein the output signal varies a frequency and/or intensity with which the turn signal lamp blinks**-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off. Unlike Dantoni, amended claim 6 “varies a frequency and/or intensity with which the turn signal lamp blinks.” Thus, Applicant respectfully requests that the rejection of claim 6 be withdrawn and that claim 6 be allowed.

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With regards to claims 7-10, Applicant submits that claims 7-10 incorporate the limitations of claim 6. So Applicant respectfully requests that the rejections of claims 7-10 under 35 USC §§ 102(b) and 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 11, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach "each and every element as set forth in the claim[s]". In particular, amended claim 11 states:

An apparatus to communicate a turn of a vehicle, the apparatus comprising: a sensor to detect an angle of a wheel of the vehicle; a control circuit to generate an output signal, wherein the output signal varies in proportion to the angle of the wheel; and a turn signal lamp to produce a turn signal based upon the output signal.-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. An amendment to claim 11 requested above is made to clarify its meaning. Unlike Dantoni, claim 11 describes "an output signal, wherein the output signal varies in proportion to the angle of the wheel". Thus, Applicant respectfully requests that the rejection of claim 11 be withdrawn and that claim 11 be allowed.

With regards to claims 12-13, Applicant submits that claims 12-13 incorporate the limitations of claim 11. So Applicant respectfully requests that the rejections of claims 12-13 under 35 USC §§ 102(b) and 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 14, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach "each and every element as set forth in the claim[s]". In particular, amended claim 14 states:

A vehicle comprising: a shaft; a sensor to detect a position of a shaft; a control circuit to generate an output signal, wherein a voltage of the output signal varies based upon the position of the shaft; and a turn signal lamp to produce a turn signal based upon the output signal, wherein the output signal varies a frequency and/or intensity with which the turn signal lamp blinks.-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off. Unlike Dantoni, amended claim 14 "varies a

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frequency and/or intensity with which the turn signal lamp blinks.” Thus, Applicant respectfully requests that the rejection of claim 14 be withdrawn and that claim 14 be allowed.

With regards to claim 15, Applicant submits that claim 15 incorporates the limitations of claim 14. So Applicant respectfully requests that the rejection of claims 15 under 35 USC § 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 18, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach “each and every element as set forth in the claim[s]”. In particular, amended claim 18 states:

**A vehicle comprising: a wheel; a sensor to detect an angle of the wheel; a control circuit to generate an output signal, wherein the output signal varies in proportion to the angle of the wheel; and a turn signal lamp to produce a turn signal based upon the output signal.-(emphasis added).**

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. An amendment to claim 18 requested above is made to clarify its meaning. Unlike Dantoni, claim 18 describes “an output signal, wherein the output signal varies in proportion to the angle of the wheel”. Thus, Applicant respectfully requests that the rejection of claim 18 be withdrawn and that claim 18 be allowed.

With regards to claim 19, Applicant submits that claim 19 incorporates the limitations of claim 18. So Applicant respectfully requests that the rejection of claim 19 under 35 USC § 103(a) be withdrawn and the claim be allowed.

With regards to independent claim 25, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach “each and every element as set forth in the claim[s]”. In particular, claim 25 states:

**A method for communicating a turn of a vehicle, the method comprising: generating a output signal based upon an angle of a wheel of the vehicle to communicate the turn; and applying the output signal to a turn signal lamp to vary a frequency with which the turn signal flashes based upon an angle of a wheel of the vehicle.-(emphasis added).**

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As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. An amendment to claim 25 requested above is made to clarify its meaning. Unlike Dantoni, claim 25 describes "applying the output signal to a turn signal lamp to vary a frequency with which the turn signal flashes based upon an angle of a wheel of the vehicle." Thus, Applicant respectfully requests that the rejection of claim 25 be withdrawn and that claim 25 be allowed.

With regards to claims 26-27, Applicant submits that claims 26-27 incorporate the limitations of claim 25. So Applicant respectfully requests that the rejections of claims 26-27 under 35 USC §§ 102(b) and 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 32, the Office action fails to establish a prima facie case of anticipation by Walton because citations of Walton provided as support for the rejections fail to describe, suggest or teach "each and every element as set forth in the claim[s]". In particular, amended claim 32 states:

A method for communicating a turn of a vehicle, the method comprising: determining an amount of time the vehicle has been moving while the wheels are turned; varying an output signal based upon the amount of time; and **applying the output signal to a turn signal lamp to produce a turn signal, wherein an intensity with which the turn signal lamp blinks is based upon the amount of time.**-(emphasis added).

As cited, Walton states:

...If desired, the turn light circuit can be configured with the turning of the vehicle so that the **turn light circuit activates the turn signals** when the vehicle enters a turn and continues **for some predetermined period of time**, such as, for example, two seconds.-(emphasis added).

Walton describes the option of activating the turn signals for a predetermined period of time. Activating a turn signal for a predetermined period of time does not vary "...an intensity with which the turn signal lamp blinks...based upon the amount of time". Thus, Applicant respectfully requests that the rejection of amended claim 32 be withdrawn and that amended claim 32 be allowed.

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With regards to claims 33-35, Applicant submits that claims 33-35 incorporate the limitations of claim 32. So Applicant respectfully requests that the rejections of claims 33-35 under 35 USC § 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 36, the Office action fails to establish a prima facie case of anticipation by Dantoni because citations of Dantoni provided as support for the rejections fail to describe, suggest or teach "each and every element as set forth in the claim[s]". In particular, amended claim 36 states:

A method for communicating a turn of a vehicle, the method comprising: sensing an angle of a wheel of the vehicle while the vehicle is moving; generating an output signal based upon the angle; and **applying the output signal to a turn signal lamp to vary an intensity of a turn signal from the turn signal lamp based upon the angle.**-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. An amendment to claim 36 requested above is made to clarify its meaning. Unlike Dantoni, claim 36 describes "...applying the output signal to a turn signal lamp to vary an intensity of a turn signal from the turn signal lamp based upon the angle." Thus, Applicant respectfully requests that the rejection of amended claim 36 be withdrawn and that amended claim 36 be allowed.

With regards to claims 37-38, Applicant submits that claims 37-38 incorporate the limitations of amended claim 36. So Applicant respectfully requests that the rejections of claims 37-38 under 35 USC § 103(a) be withdrawn and the claims be allowed.

**Claim rejections under 35 USC § 103(a)**

The Office action rejected claims 2-5, 8-10, 15-17, 19-31, and 33-40 under 35 USC § 103(a) as being unpatentable over Walton, Walton in view of Goertler, Walton in view of Dantoni, Dantoni, Dantoni in view of Middlebrooke, and Walton in view of Middlebrooke. Applicant believes that the rejections of the dependent claims 2-5, 7-10, 12-13, 15, 19, and 33-35 are traversed as discussed above and that that the rejections of claims 16-17, 20-31, and 36-40 are traversed with the arguments above in conjunction with the arguments below.

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To establish a prima facie case of obviousness, three basic criteria must be met.<sup>3</sup> First, there must be a suggestion or motivation to modify or combine the references.<sup>4</sup> Second, there must be a reasonable expectation of success in the modification or combination.<sup>5</sup> Finally, the modification or combination must teach or suggest all of Applicants' claim limitations.<sup>6</sup>

Walton

With regards to independent claim 16, the Office action fails to establish a prima facie case of obviousness by Walton because citations of Walton provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>7</sup> In particular, amended claim 16 states:

A vehicle comprising: a wheel to turn the vehicle; a sensor to indicate whether the vehicle is turning; a control circuit to determine a sensor signal indicative of an amount of time that the vehicle has been turning and to generate an output signal, wherein the output signal varies based upon the amount of time; and a turn signal lamp to produce a turn signal based upon the output signal, **wherein the frequency and/or intensity with which the turn signal lamp blinks is varied based upon the amount of time.**-(emphasis added).

As cited, Walton states:

...If desired, the turn light circuit can be configured with the turning of the vehicle so that the **turn light circuit activates the turn signals** when the vehicle enters a turn and continues **for some predetermined period of time**, such as, for example, two seconds.-(emphasis added).

Walton describes the option of activating the turn signals for a predetermined period of time. Activating a turn signal for a predetermined period of time does not "vary[] a frequency and/or intensity with which the turn signal blinks... based upon an amount of time". Thus, Applicant respectfully requests that the rejection of claim 16 be withdrawn and that claim 16 be allowed.

<sup>3</sup> Manual of Patent Examining Procedure §2142.

<sup>4</sup> *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991).

<sup>5</sup> *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986).

<sup>6</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

<sup>7</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

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With regards to claim 17, Applicant submits that claim 17 incorporates the limitations of claim 16. So Applicant respectfully requests that the rejection of claim 17 under 35 USC § 103(a) be withdrawn and the claim be allowed.

*Dantoni in view of Middlebrooke*

With regards to independent claim 20, the Office action fails to establish a prima facie case of obviousness by Dantoni in view of Middlebrooke because citations of Dantoni and Middlebrooke provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>8</sup> In particular, claim 20 states:

A method for communicating a turn of a vehicle, the method comprising: generating an output signal **with a frequency that varies based upon a position of a shaft**; and outputting a turn signal in response to application of the output signal to a turn signal lamp, wherein the turn signal flashes in relation to the frequency.-(emphasis added).

The Office action states:

...In addition, it would have been obvious to **vary frequency of turn signals in order to warn oncoming traffic** that a turning vehicle has committed itself to the turn and that movement is in process.-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off. Middlebrooke's disclosure describes switching the frequency of the turn signal from 80 flashes per minute to 200 flashes per minute and vice versa. Neither patent describes, teaches, or suggests "a frequency that varies based upon a position of a shaft." Therefore, the combination of Dantoni and Middlebrooke not only requires the use of impermissible hindsight<sup>9</sup> to attempt to reconstruct Applicants' invention, but the combination fails to achieve all of the elements of the claims. Applicant respectfully requests that the rejection of claim 20 be withdrawn and that claim 20 be allowed.

<sup>8</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

<sup>9</sup> *In re McLaughlin*, 443 F.2d 1392, 170 U.S.P.Q. 209, 212 (CCPA 1971)[Obviousness rejection cannot be based only on knowledge gleaned from Applicants' disclosure.].



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With regards to claims 21-24, Applicant submits that claims 21-24 incorporate the limitations of claim 20. So Applicant respectfully requests that the rejections of claims 21-24 under 35 USC § 103(a) be withdrawn and the claims be allowed.

With regards to independent claim 25, the Office action fails to establish a prima facie case of obviousness by Dantoni in view of Middlebrooke because citations of Dantoni and Middlebrooke provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>10</sup> In particular, claim 25 states:

A method for communicating a turn of a vehicle, the method comprising: generating a output signal based upon an angle of a wheel of the vehicle to communicate the turn; and applying the output signal to a turn signal lamp to vary a frequency with which the turn signal flashes based upon an angle of a wheel of the vehicle.-(emphasis added).

The Office action states:

...interpreted and rejected for the same reasons as stated in the rejection of claims 11 and 20 as stated above regarding angle of wheel.-(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off. Middlebrooke's disclosure describes switching the frequency of the turn signal from 80 flashes per minute to 200 flashes per minute and vice versa. Neither patent describes, teaches, or suggests "to vary a frequency with which the turn signal flashes based upon an angle of a wheel of the vehicle." Therefore, the combination of Dantoni and Middlebrooke not only requires the use of impermissible hindsight<sup>11</sup> to attempt to reconstruct Applicants' invention, but the combination fails to achieve all of the elements of the claims. Applicant respectfully requests that the rejection of claim 25 be withdrawn and that claim 25 be allowed.

With regards to claims 26-27, Applicant submits that claims 26-27 incorporate the limitations of claim 25. So Applicant respectfully requests that the rejections of claims 26-27 under 35 USC § 103(a) be withdrawn and the claims be allowed.

<sup>10</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

<sup>11</sup> *In re McLaughlin*, 443 F.2d 1392, 170 U.S.P.Q. 209, 212 (CCPA 1971)[Obviousness rejection cannot be based only on knowledge gleaned from Applicants' disclosure.].

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With regards to independent claim 36, the Office action fails to establish a prima facie case of obviousness by Dantoni in view of Middlebrooke because citations of Dantoni and Middlebrooke provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>12</sup> In particular, amended claim 36 states:

A method for communicating a turn of a vehicle, the method comprising: sensing an angle of a wheel of the vehicle while the vehicle is moving; generating an output signal based upon the angle; and applying the output signal to a turn signal lamp to vary an intensity of a turn signal from the turn signal lamp based upon the angle -(emphasis added).

The Office action states:

...interpreted and rejected for the same reasons as stated in the rejection of claims 11 and 20 as stated above regarding angle of wheel -(emphasis added).

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off. Middlebrooke's disclosure describes switching the frequency of the turn signal from 80 flashes per minute to 200 flashes per minute and vice versa. Neither patent describes, teaches, or suggests "to vary an intensity of a turn signal from the turn signal lamp based upon the angle [of the wheel of the vehicle]." Therefore, the combination of Dantoni and Middlebrooke not only requires the use of impermissible hindsight<sup>13</sup> to attempt to reconstruct Applicants' invention, but the combination fails to achieve all of the elements of the claims. Applicant respectfully requests that the rejection of amended claim 36 be withdrawn and that amended claim 36 be allowed.

With regards to claims 37-38, Applicant submits that claims 37-38 incorporate the limitations of amended claim 36. So Applicant respectfully requests that the rejections of claims 37-38 under 35 USC § 103(a) be withdrawn and the claims be allowed.

Walton in view of Middlebrooke

<sup>12</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

<sup>13</sup> *In re McLaughlin*, 443 F.2d 1392, 170 U.S.P.Q. 209, 212 (CCPA 1971)[Obviousness rejection cannot be based only on knowledge gleaned from Applicants' disclosure.].

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With regards to independent claim 28, the Office action fails to establish a prima facie case of obviousness by Walton in view of Middlebrooke because citations of Walton and Middlebrooke provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>14</sup> In particular, claim 28 states:

A method for communicating a turn of a vehicle, the method comprising: generating an output signal to communicate the turn, **wherein a frequency of the output signal varies based upon an amount of time the vehicle has been moving while the wheels are turned**; and applying the output signal to a turn signal lamp to vary a frequency with which the turn signal flashes.-(emphasis added).

The Office action states:

... Walton does not disclose that the frequency is varied; however, Middlebrooke discloses this feature.

As cited, Walton describes the option of activating the turn signals for a predetermined period of time. Middlebrooke's disclosure describes switching the frequency of the turn signal from 80 flashes per minute to 200 flashes per minute and vice versa. Neither patent describes, teaches, or suggests "...a frequency of the output signal varies based upon an amount of time the vehicle has been moving while the wheels are turned...." Therefore, the combination of Walton and Middlebrooke not only requires the use of impermissible hindsight<sup>15</sup> to attempt to reconstruct Applicants' invention, but the combination fails to achieve all of the elements of the claims. Applicant respectfully requests that the rejection of claim 28 be withdrawn and that claim 28 be allowed.

With regards to claims 29-31, Applicant submits that claims 29-31 incorporate the limitations of claim 28. So Applicant respectfully requests that the rejections of claims 29-31 under 35 USC § 103(a) be withdrawn and the claims be allowed.

Dantoni

<sup>14</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

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With regards to independent claim 39, the Office action fails to establish a prima facie case of obviousness by Dantoni because citations of Dantoni provided as support for the rejections fail to teach or suggest all of Applicants' claim limitations.<sup>15</sup> In particular, claim 39 states:

A method for communicating a turn of a vehicle, the method comprising: sensing a position of a shaft of the vehicle; generating an output signal for the vehicle, wherein **a wattage of the output signal varies based upon the position of the shaft**; and applying the output signal to a turn signal lamp to **vary an intensity of a turn signal generated by the turn signal lamp based upon the position**. (emphasis added).

The Office action states:

...It would be obvious that a certain amount of work (measured as wattage) is accomplished as the position of the shaft is varied. The shaft sensor acknowledges a turning condition by recognizing that work (a turn) has been performed.

As cited, Dantoni describes turning on one to three lamps based upon the position of the shaft. The turn signal lamps are either on or off, which does not "...vary an intensity of a turn signal generated by the turn signal lamp based upon the position." Thus, Applicant respectfully requests that the rejection of claim 39 be withdrawn and that claim 39 be allowed.

With regards to claim 40, Applicant submits that claim 40 incorporates the limitations of claim 39. So Applicant respectfully requests that the rejection of claim 40 under 35 USC § 103(a) be withdrawn and the claim be allowed.

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<sup>15</sup> *In re McLaughlin*, 443 F.2d 1392, 170 U.S.P.Q. 209, 212 (CCPA 1971)[Obviousness rejection cannot be based only on knowledge gleaned from Applicants' disclosure.].

<sup>16</sup> *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974).

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### CONCLUSION

In the present response, Applicant has amended the claims and responded to the Office actions claim rejections under 35 USC §§ 112, 102, and 103. Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the Office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant requests that the rejections be withdrawn, pending claims be allowed, and application advance toward issuance. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference with Jeffrey Schubert at (512) 288-6635.

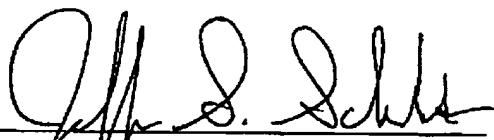
The Commissioner is authorized to charge or credit any overpayments or underpayments to Deposit Account No. 50-3295.

Respectfully submitted,

Date:

Feb 23, 2006

By:



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